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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 4th August, 1975:—

BILL No. 58 OF 1975

A Bill further to amend the Representation of the People Act, 1951 and the Indian Penal Code.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Election Laws (Amendment) Act, 1975.

Amendment of section 77.

43 of 1951.

2. In section 77 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (*1*), after *Explanation* 2, the following *Explanation* shall be inserted, namely:—

"*Explanation* 3.—For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate or by his election agent for the purposes of this sub-section.".

Amendment of section 79.

3. In section 79 of the principal Act, for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "candidate" means a person who has been or claims to have been duly nominated as a candidate at any election and any such person shall be deemed to have been a candidate as from the date of publication of the notification calling the election and not from any earlier date;'.

Amendment of section 123.

4. In section 123 of the principal Act,—

(*a*) in clause (3), the following proviso shall be inserted at the end, namely:—

"Provided that no symbol allotted under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this clause.";

(*b*) in clause (7), the following proviso shall be inserted at the end, namely:—

"Provided that where any person, in the service of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his election agent, (whether by reason of the office held by the candidate or for any other reason), such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.";

(*c*) in the *Explanation* at the end, the following shall be added, namely:—

"(3) For the purposes of clause (7), notwithstanding anything contained in any other law, the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Central Government (including a person serving in connection with the administration of a Union territory) or of a State Government shall be conclusive proof—

(*i*) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, and

(*ii*) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.".

Amendment of section 171A of Act 45 of 1860.

5. In the Indian Penal Code, in section 171A, for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "candidate" means a person who has been nominated as a candidate at any election;'.

Amendments to have retrospective effect.

6. The amendments made by this Act in the principal Act shall also have retrospective operation so as to apply to and in relation to any election held before the commencement of this Act to either House of Parliament or to either House or the House of the Legislature of a State—

(*i*) in respect of which any election petition may be presented after the commencement of this Act; or

(*ii*) in respect of which any election petition is pending in any High Court immediately before such commencement; or

(*iii*) in respect of which any election petition has been decided by any High Court before such commencement but no appeal has been preferred to the Supreme Court against the decision of the High Court before such commencement and the period of limitation for filing such appeal has not expired before such commencement; or

(*iv*) in respect of which appeal from any order of any High Court made in any election petition under section 98 or section 99 of the principal Act is pending before the Supreme Court immediately before such commencement.

STATEMENT OF OBJECTS AND REASONS

Section 79(b) of the Representation of the People Act, 1951, defines the expression "candidate" as including a person who has held himself out as a prospective candidate. By virtue of this, a person may be deemed to be a candidate at an election for a long period even before the issue of the notification calling the election. So far as election expenses are concerned, section 77 of the Act as substituted in 1956 limits the returnable expenses only to the expenses incurred between the date of the publication of the notification calling the election and the date of declaration of the result thereof. In view of this it will be anomalous to retain the concept of prospective candidate for other purposes. It is, therefore, proposed to amend the definition of "candidate" in clause (b) of section 79 of the Act so as to provide that a person shall be deemed to be a candidate at an election from the date of publication of the notification calling the election and not from any earlier date and also to make the necessary consequential modification in the definition of the same expression in section 171A of the Indian Penal Code.

2. Under clause (3) of section 123 of the Representation of the People Act, 1951, the use of, or appeal to, religious symbols or national symbols for the furtherance of the prospects of the election of a candidate or for prejudicially affecting the election of a candidate constitutes a corrupt practice. It is proposed to make it clear that symbols allotted under the Act to candidates shall not be deemed to be religious symbols or national symbols for the purposes of this clause.

3. According to clause (7) of section 123 of the Representation of the People Act, 1951, the obtaining by a candidate of any assistance for the furtherance of the prospects of that candidate's election from certain classes of persons in the service of the Government amounts to a corrupt practice. It is proposed to make it clear that acts done for or in relation to a candidate by a person in the service of Government in the discharge or purported discharge of his official duty will not amount to assistance in furtherance of the prospects of that candidate's election. It is also proposed to make it clear that the expenditure incurred on the performance of such acts should not be included in the election expenditure of the candidate for the purposes of section 77 of the Act.

4. It is further proposed to amend clause (7) of section 123 to make it clear that the publication in the Official Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Government and of the date of taking effect thereof shall be conclusive proof of such appointment, resignation, termination, dismissal or removal from service and of the date of taking effect thereof.

5. The amendments proposed to be made in the Representation of the People Act will have retrospective effect so as to apply to elections held before the date of enactment of the Bill in respect of which election petitions may be filed or are pending.

6. The Bill seeks to achieve the above objects.

NEW DELHI;
The 2nd August, 1975.

H. R. GOKHALE.

S. L. SHAKDHER.
Secretary-General.

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